

ADVISORY COMMITTEE MINUTES

November 15, 2005

Members Present:

James Arnold
Bob Shosted
John Greenfield
Glenna Christensen
Dave Gribskov
Max Sheils

Steve Millard
Linda Sams
Dave Whaley
Steve Haase
Senator John Andreason
Representative Kathie Garrett

Members Absent:

Tracy Whigham
Rian Van Leuven
Willis Norton

Opening Remarks:

Chairman Bob Shosted welcomed the new members and introductions of all members were made. The Chairman read the Mission and Vision Statement from the Advisory Committee Charter.

Minutes of August 23, 2005

Mr. Shosted called for approval of the Minutes of August 23, 2005. Upon motion by Dave Whaley and seconded by Max Sheils, the Minutes were approved as written.

Consideration of Issues:

Proposed Change to Idaho Code 72-212 (12) – Kent Rock, Risk Manager for the City of Boise, presented proposed changes to Idaho Code 72-232(12). Mr. Rock's proposal is to clarify the exemption for officials of sporting events sponsored by Idaho city recreation departments. The cities and officials are divisive on whether or not sports officials need workers' compensation insurance. Current insurance rates for sports officials of youth programs are the same as that for professional leagues, and the cost is too prohibitive to pass on to participants.

Mr. Rock asked Alan Gardner of Gardner Law Office to address the committee. Mr. Gardner reported that city recreation departments contract with associations who contract with sports officials for Idaho cities sponsored events and is of the opinion that these officials are independent contractors who are already exempt. Mr. Gardner believes the proposed legislation is necessary, however, for clarity. Several members of the Advisory Committee opined that listing exemptions may not be the best way to go, and based on previous case law, sports officials are contract labor and are already exempt. It was suggested that the city might want to gather more facts before presenting their proposed bill to the legislature. No consensus on the proposed legislation was reached.

Industrial Special Indemnity Fund Update – Ted Roper, Manager

Ted Roper, Manager of the Industrial Special Indemnity Fund gave a power point presentation on the history of the ISIF and past and current funding procedures. The ISIF currently has approximately thirty-four annuities and has decided to discontinue purchasing annuities since they cannot be purchased with increases to match the increases of the average weekly state wage, and insurers and self-insurers usually have better investment strategies than annuities. The ISIF over the last two to three years has paid about one million dollars out to approximately 100 claimants per year. The average cost of lump sum settlements over the last year has been approximately \$30,000. Mr. Roper reported that due to aging baby-boomers, claims are becoming more complex and expensive. He also noted some changes the ISIF was making to their annual report. Mr. Roper concluded with a question and answer session.

Subcommittee Member Replacement

Members of each subcommittee were reviewed. Several members volunteered to replace those members whose term expired. The revised subcommittee membership roster is attached and made a permanent part of this record.

Subcommittee Reports:

Balance Billing

(Max Sheils (Chair), John Greenfield, Dave Whaley, Steve Millard, Dave Gribskov, Steve Haase, Jack Barrett (ex-officio), Ron Hodge (ex-officio), Julie Cooper (ex-officio), and Scott McDougall(ex-officio).

Subcommittee Chair Max Sheils reported that the subcommittee met several times to discuss the appropriate methodology to clarify that balance billing is inconsistent with the intent of the Idaho workers' compensation law in that employees are not responsible for medical provider charges of workers' compensation claims. Mr. Sheils reported that the subcommittee reached consensus on the following recommendations:

1. Propose statutory amendments to 72-102(2) defining "Balance Billing", 72-102(25) defining "Provider", and clarifying in 72-432(6) that no provider shall engage in balance billing as defined in this law.
2. No IDAPA changes are necessary.
3. No penalty provision should be addressed at this time.
4. Idaho statutes would not be effective with out of state medical providers. Therefore, if a provider demands payment in excess of amounts allowed in

Idaho, the surety or self-insured employer may be responsible for the charge, but not the employee.

5. Revise the Industrial Commission's letter that is sent to all injured workers to include verbiage clarifying that an injured worker is not responsible for the cost of medical treatment by his or her authorized medical provider. The subcommittee also recommends that the Commission urge claim handlers to notify providers as well as injured workers that balance billing is strictly prohibited.

After discussion of the recommendations, some minor language revisions were suggested and Representative Kathie Garrett suggested that the subcommittee not direct the Commission on rule changes until after the proposed legislation has passed. Chairman Shosted called for a consensus on the proposed statutory changes recommended by the subcommittee on balance billing. Consensus was reached to send the proposed amended legislation to the Commission for approval to submit to the 2006 legislature. Representative Kathie Garrett and Senator John Andreason may carry the legislation.

Death Benefits/Total Permanent Disability Schedules and Kids' Chance Program
(Jack Barrett Ex-Officio Chair, Bob Shosted, Rian Van Leuven, John Greenfield, Linda Sams, Senator John Andreason, Dave Gribskov, Kim Takagi (ex-officio))

Subcommittee Chair Jack Barrett reported that the subcommittee met and reached consensus on these three issues and gives the following recommendation to the Advisory Committee members for consideration:

1. Established there is a need for the Kids' Chance Program and the logical sponsor would be the Workers' Compensation Section of the Idaho State Bar, who would also run the program. Mr. Barrett stated that the Kid's Chance Program is non-profit and strictly voluntary, and Moffatt Thomas has agreed to draft the necessary documents to establish the program on a pro bono basis.
2. Recommends that no legislation be proposed to extend benefits for dependent children of Total Permanent Disability (TPD) claimants as the current benefit structure encompasses the additional funds. Mr. Barrett reported that his research indicated that no other states allow an extension of benefits to dependent children of TPD claimants for secondary education attendance.
3. Recommends that benefits in death cases for dependent children be extended to the age of 23 if the dependent attends college or trade school full time after the age of 18. Mr. Barrett reported that his research indicates 41 other states extend these benefits and approximately 22-23 of these states have average weekly state wages comparable to Idaho. NCCI calculated the possible cost of this benefit, and reported that the premium tax increase would be miniscule.

Discussion was held and the Advisory Committee reached consensus to proceed with establishing the Kids' Chance Program and to forward to the Commission for approval the proposed legislation of Idaho Code § 72-412(2) extending death benefits to dependent children who are enrolled as full time students in any accredited educational institution or vocational training program until the child reaches twenty-three years of age.

Other Issues:

Industrial Commission Report:

Commissioner Kile reported on the success of the Industrial Commission's Annual Workers' Compensation Seminar held in October. The Commission experienced a sell-out crowd and even had to turn some people away at the door.

Commissioner Kile updated the members on the medical fee schedule mandated by the 2005 legislature. He reported that public hearings were held in Boise, Twin Falls, Coeur d'Alene, Lewiston, and Idaho Falls and comments from sureties and providers were very informative. Commissioner Kile reported that the Commission decided to extend the public comment period to January 13, 2006 on the proposed IDAPA 17.02.08, and has submitted a temporary rule with the same language and format as the proposed rule. This will allow the Commission to continue to gather information and attend meetings that may help resolve some of the issues associated with the medical fee schedule.

Commissioner Maynard reported that initially the conversion factors used in our medical fee schedule submitted to NCCI resulted in a reduction in premium of .2%. However, since those first numbers were reported to us, NCCI added in Medicare established utilization factors, which projects an .8% increase in rates. The Commission was unaware that utilization was not a factor in the first set of numbers and therefore was surprised by the projection.

Max Sheils asked about the Boise office relocating. Director Mindy Montgomery reported that the Commission has sent out a Request For Purchase (RFP) for relocating the Boise offices. The RFP closes November 22, 2005. The two requests are for moving all the current employees to one location or breaking out the Rehabilitation Division to a different location.

The next meeting was scheduled for February 7, 2006. Topics for the next meeting will be subcommittee reports and a legislative update.

The meeting was then adjourned.